



UNITED STATES DISTRICT COURT  
Northern District of New York

In the matter of  
Alexander Pagan

Notice of  
Claim

East Greenbush Police Department 42 USCA 1983  
1:22-CV-969  
(DNH/ML)

Please take NOTICE, Alexander Pagan  
the Petitioner herein does file a Notice  
of Claim in accordance with 42 USCA 1983  
with sworn Affidavits and exhibits  
attached hereto forthwith.

Petitioner may receive mail at 176  
Aster Dr, New Hyde Park N.Y. 11040. And  
now moves this court for a Notice of Claim  
to be heard on 11/13/2022 or as soon  
thereafter as the Court deem just and proper;

Dated : 9/13/2022

Alexander Pagan  
Petitioner - pro-se  
176 Aster Dr  
New Hyde Park N.Y. 11040

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- A. PETITION For Leave to proceed in Forma  
Pauperis with Confidential Address, 3/1/2021  
3 page Document
- B. Motion to Unseal Documents 3/1/2021  
2 page document
- C. Community Care Laboratory result 10/9/2020.  
2 page document
- D. Notice of Claim 42 USCA 1983  
1 page document
- E. Affidavit in Support of 42 USCA 1983  
Claim  
11 page Document.
- F. Affidavit of service of Notice of  
Claim, and supporting exhibits  
2 page Document.

Table of Law

28 U.S.C.A. § 1654

242 Title 18

NY PL 265, 0111

People v. Singleton, 127 misc 2d 735 (Crim Ct.  
New York 1985)Ferguson v. City of New York #2630, 18951/01,  
2010 N.Y. App. Div Lexis 4428 (1st Dept.)

People v. Davis, 36 NY2d 280; People v. Oden, 36  
 NY2d 382; People v. Russell, 34 NY2d 261; People  
 v. Corrado, 22 NY2d 308, People v. Martinez  
 37 NY2d 662, People v. Allende 39 NY2d 474,  
 People v. Green, 35 NY2d 193. People v. Cantor  
 36 NY2d 106, 111. Smith v. Wade 461 U.S. 30  
 S.Ct 1625, 75 L.Ed 2d 632 [1983] Batista  
 v. Weir, 340 F.2d 74 [3d Cir 1965] 42  
 USCA § 1988[b]



UNITED STATES DISTRICT COURT

Northern District of NEW YORK

In the matter of

Alexander Pagan

Criminal No: 16-1068

Affidavit In

support of Notice

of Claim

East Greenbush Police Department

Be it known, on this 13 day of sep 2022, I  
Alexander Pagan do hereby being duly sworn  
deposes and states the following:

(1) I am the petitioner in this 42 USCA 1983  
Petition, attached and make this Affidavit in support of.

(2) Jurisdiction

On June/22/2021 at 10:00 am a SO(h) hearing  
was heard via zoom (meeting ID: 969 7853  
6727 Pass code: 679761). Thomas K. Murphy  
Esq. for East Greenbush Police Department.

(3) Petitioner moving pro-se represented himself  
with witness Timothy Negron. Still pro-se  
Petitioner now submits claim after SO(h)  
Hearing compliance. (28 USCA §1654)

(4) A motion to Unseal case "Criminal No:  
16-1068 was filed on 3/1/2021. Unsure as to  
status of said Motion so shall proceed as best as  
possible. Video evidence received by Public Defenders  
office includes a video that has a Walmart Security

block. Though it shows officer Lavin approaching Petitioner in utter silence. This after a segment fraction that has an annoyed Petitioner asking Walmart manager to leave him alone.

(5) After clip of this person posing as an Authoritative figure approaches Plaintiff it skips to video portion of officer Bodily handling Petitioner. As officer for reasons still unknown forcibly dragged Petitioner from inside of the Public Domain of bus stop into the parking lot of the privately owned Walmart corporation. That an officer is dragging civilians in the parking lot somehow did not warrant security checking to see what the officer was up to is confusing. Just as confusing as trying to figure out why Petitioner was dragged from bus stop.

(6) Petitioner requested unsealing of case to get the block removed from video among other things such as review why the officer felt the need to not only not identify himself. Yet observe why the stealthy attack on Petitioner where fellow officer entered fray in an illegal approach of Petitioner with nothing but evil intentions.

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armed with gloves and Tazer gun officer assaults from N.Y. State Police Department did knowingly and intelligently made the decision from squad car as officer Lavin emphatically stated under oath. "When I saw him with the hood on I just knew I was taking him in."

(7) While some states might consider wearing a hooded sweater in 80 degree weather suspicious. Yet in instant case we are speaking of a record low in the area this took place. Thus the notion of a hooded sweater worn by Plaintiff being suspicious means that any person wearing a hooded sweatshirt that night, the coldest night recorded for 12/18/2005 in East Greenbush. A warning blue code had been issued this night. Thus anybody not wearing some form of protection on head area was in trouble of catching chill. Petitioner with a bald head decided a hooded sweater was mandatory. For the cold on bare skin of scalp is extra uncomfortable.

(8) "Rights protected in section 242 of Title 18 establish that the rights of constitution are not to be deprived a constituent without a valid reason." In fact Judge Ceseria dismissed this

case, Deeming there was no probable cause for an approach by officers working under color of law to approach Petitioner. Nor was there any proof of injury offered to substantiate Assault in Second Degree, No 911 call log was offered or any log that would explain these officers actions.

(9) Petitioner on way home from work was attacked in accordance with section 265.01 goes on to name "Electronic Stun" and sap gloves as weapons. People v. Singleton, 127 Misc 2d 735 (Crim Ct. New York 1985.) the injuries suffered by Petitioner are life long permanent injuries. Loss of job and wages. With 51 days incarceration for no apparent reason destroyed any chances Petitioner had of living any life of normalcy like any other constituent is allowed.

(10) As ruled by court that there was no legal reason for officers approaching of petitioner. What followed was a series of pain filled memories of even family turning their backs on Petitioner. Causing rift in family that has yet to mend. Petitioner has since

suffered grave injury, as well as loss of family life where Petitioner was an outcast. The loss of wages accumulated since Petitioner lost job that grossed pay \$445.50 a week for the 7 years these injuries have kept the Petitioner off work, without even adding for pay raise or bonuses. A rough estimate in loss wages is a gross pay of \$162,092.00.

(iii) Where officers arrived at scene in full dress uniform and Squad car, The officers represented the Police Department with Tazer guns and sap gloves used in illegal setting. These officers were able to deprive and infringe upon the rights of Petitioner under color of law.

The shame of going from Homeless shelter to homeless shelter, being forced to sleep in the streets due to shame of asking for help from family who turned their backs on me due to this action by officers. Petitioner is asking the maximum of 5 scale of 1 through 5 where petitioner had to relearn to walk even with limited ability due to injuries sustained severe nerve damage, and herniating



discs in neck to the point of disability.

(12) Since then Petitioner has self rehabbed, the 7 long years it has taken to begin to reassemble a form of life has been a wretched experience my family has afterward tried to help by getting the Petitioner new teeth as his old set were completely smashed by sap gloves attack. Petitioner asks that lost wages and expenses be rewarded here.

(13) A punitive award is also requested here to deter future officers of such conduct that is wanton, reckless, or malicious. The use of sap gloves and stun gun machine as weapons on an innocent pedestrian because of a hooded sweat shirt in code Blue alert constitutes excessive force. Ferguson v. City of New York, #2630-18951/01, 2010 N.Y. App. Div. Lexis 4428 (1st dep.)

(14) According to investigatory report officer Lavin, not only seems to have as senior officer on call at time of incident, Initiated an unlawful approach of Petitioner, Did forcibly attack (with cohort(s)) and remove Petitioner from his world into a world of chaos as he claimed injury thwarting attention

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actions, illegal as taught in profession.

(15) For it is frequently rejected that the notion that behavior which is susceptible of innocent as well as culpable interpretation will constitute probable cause. (People v. Davis, 36 NY2d 280; People v. Oden, 36 NY2d 382; People v. Russell, 34 NY2d 261; People v. Corrado, 22 NY2d 308.)

It is equally true that innocuous behavior alone will not generate a founded or reasonable suspicion that a crime is at hand. (Compare People v. Martinez, 37 NY2d 662, and People v. Allende 39 NY2d 471, with People v. Singletary, 35 NY2d 528, and People v. Green, 35 NY2d 193. Here it was agreed that encounter was supported by less than reasonable suspicion and consequently would not justify a stop involving actual or constructive restraint. For a pedestrian wearing a hooded sweatshirt out doors while area is under a Code Blue freeze alert does not even seem reasonable reason for these officers actions. People v. Cantor 36 NY2d 106, 111.

(16) After claiming injury although MRI of



said officer was on Date of incident aftermath with negative results. This officer took his evil and malicious actions further. Taking an injury leave of absence this officer went on to not only party hard. He used this paid leave to get married and indulge in strenuous party activities that no person claiming injury as his could perform. After marriage and the festivities that followed officer finally returned to work though he was deemed fit for work without restriction, with an advice to not engage others in physical engagement that might cause a real injury.

(17) With no record of pre-incident account such as an actual 911 call log or anonymous informant inquiry. It is hard to say or determine if this officer went on duty that night in search of a victim in order to perform the dastardly confrontation that would enable the officer to seek paid leave before festivities. Or if this officer just decided to abuse state tax payers funds capitalizing on his already enacted misconduct by gaining all possible as



Petitioner lay crippled in county jail for 51 days facing trumped up accusations in order to satisfy evil motives here.

### IN CONCLUSION

- (a) With loss of freedom, broken bones, stitches, and numerous contusions, nerve damage (extensive) along with Cervical Radiculopathy it wasn't until October 9/2020 Exhibit (1) that the Radiculopathy which is excruciating pain from mere movement finally stopped registering on MRI scans of Petitioner, to only pain status which according to the Doctors is something that is life long and the Radiculopathy will continue to occur under inflammation.
- (b) As of March 2022 Petitioner has finally began to work again. "Consumer Direct" is employer of Petitioner as a (PCA) Personal Care Assistant, a part time employee helping those who can't help themselves. Making a difference in the lives of others. A public servant of a different kind as this Evil officer. The kind that actually helps others.
- (c) The Complaints with Chief of Police that some action be commenced against this officer go back

before this action commenced. Compensatory Damages requested are \$162,092.00 in lost wages an extra \$5,000.00 for illegal detainment of 51 days. Plus \$86,000 for new set of teeth.

(D) For pain and suffering as well as mental anguish, with the embarrassment and rift in family that has yet to mend itself. For Petitioner has also lost the confidence, and Belief of all family and those beloved unto Petitioner before this incident occurred a level 5 registry is the least that should be rewarded.

(E) A punitive Damage similar to tort law is available under (Smith v. Wade 461 U.S. 30 S.Ct 1625, 75 L. Ed 2d 632 [1983]) if the jury finds these heinous actions of Defendant who for all intent and purposes could have targeted any stranger to Defendant. Even a Politician. The record reflects the callous indifference of federally protected rights for his own self gain and evil purposes. The jury has the duty of assessing a punitive damage award that would suffice to send an example to all such law breakers under color of law, that

such behavior shall not be tolerated. (Basista v. Weir, 340 F.2d 74 [3d Cir 1965])

(F) The Civil Rights Attorney Fee Awards Act of 1976 (42 USC § 1988(b)) allows for the award of reasonable attorney's fees to the prevailing party in cases brought under various federal civil rights laws, which Petitioner asks be granted here as well as any further relief as is deemed just and proper here. Thank You.

Alexandra Pagan  
Petitioner Pro-Se

Sworn to Before me  
this 13<sup>th</sup> day of September, 2022

Cassandra A. Krom  
Notary Public

CASSANDRA A. KROM  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01KR8383142  
Qualified in Albany County  
My Commission Expires 11-13-2022

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

In the matter of  
Alexander Pagan

Criminal No:  
16-1068  
Affidavit

East Greenbush Police Department of Service

On the 13 day of Sep, 2022, I  
Alexander Pagan, being duly sworn deposes  
and states the following:

1) I am the Petitioner in the 42 USCA 1983  
Claim herein submitted in the proceedings  
of case 16-1068.

2) I have served via United States Postal  
Service certified mail a true and accurate copy  
of Claim with Affidavit in Support and all  
annexed exhibits upon the following parties

1) U.S. District Court of New York  
Northern District of New York  
James T. Foley U.S. Courthouse  
445 Broadway Albany N.Y. 12207

2) Elaine Rudzinski Chief of Police  
255 Colombia Turnpike  
Rensselaer, NY 12144

3) David Gruenberg, Esq.  
54 2nd Street  
Troy N.Y. 12180

Alexander Pagan  
Petitioner

Sworn to Before me  
this 13<sup>th</sup> day of September 2022

Cassandra A Krom  
Notary Public

CASSANDRA A KROM  
NOTARY PUBLIC-STATE OF NEW YORK  
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